

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joshua Brickell	Team: Squad #1	CCRB Case #: 201412082	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/02/2014 10:00 PM	Location of Incident: [REDACTED]	Precinct: 44	18 Mo. SOL 6/2/2016	EO SOL 6/2/2016	
Date/Time CV Reported Wed, 12/03/2014 9:50 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/03/2014 9:50 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Manchester	08850	951959	044 PCT
2. SGT Kevin Grayson	02293	921393	044 PCT
3. POM Justin Gelband	14227	952771	044 PCT
4. POM Marc Oconnor	31777	953191	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Justin Gelband	Abuse: PO Justin Gelband drew his gun § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Matthew Manchester	Abuse: PO Matthew Manchester questioned § 87(2)(b) [REDACTED] [REDACTED]	[REDACTED]
C.POM Matthew Manchester	Abuse: PO Matthew Manchester frisked § 87(2)(b) [REDACTED] [REDACTED]	[REDACTED]
D.POM Matthew Manchester	Abuse: PO Matthew Manchester searched § 87(2)(b) [REDACTED] § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Justin Gelband	Abuse: PO Justin Gelband searched the car in which § 87(2)(b) [REDACTED] [REDACTED] was an occupant § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Marc Oconnor	Abuse: PO Marc O'Connor searched the car in which § 87(2)(b) [REDACTED] [REDACTED] was an occupant § 87(2)(b) [REDACTED]	[REDACTED]
G.SGT Kevin Grayson	Abuse: Sgt. Kevin Grayson did not process § 87(2)(b) [REDACTED] s complaint regarding officers at the 44th Precinct stationhouse.	[REDACTED]

### Case Summary

On December 2, 2014, at 10:00 p.m., officers from the 44<sup>th</sup> Precinct pulled over § 87(2)(b) for a broken license plate light § 87(2)(b) in the Bronx. As they approached his vehicle, PO Justin Gelband allegedly drew his gun and knocked on the glass with it to get § 87(2)(b) to roll down his window (**Allegation A**). PO Matthew Manchester then removed § 87(2)(b) from the vehicle, questioned, frisked and searched him (**Allegations B, C and D**), while PO Gelband and PO Marc O'Connor allegedly searched § 87(2)(b)'s vehicle (**Allegations E and F**). § 87(2)(b) was permitted to leave the scene without a summons, and went to the 44<sup>th</sup> Precinct stationhouse to file a complaint against the officers. He spoke with Sgt. Kevin Grayson, who allegedly failed to process a complaint on § 87(2)(b)'s behalf (**Allegation G**).

### Mediation, Civil and Criminal Histories

- § 87(2)(b) initially accepted mediation, however, after he was interviewed he changed his mind and decided to investigate, but did not provide a reason why he wished to do so.
- A notice of claim request was filed electronically on March 3, 2015.
- § 87(2)(b)

### Civilian and Officer CCRB Histories

- In his only other complaint, § 87(2)(b), § 87(2)(b) alleged that officers approached him while he was sitting in his vehicle. One officer knocked on the passenger window in such a way that made a loud banging noise, which § 87(2)(b) believed was caused by the officer knocking his gun on the glass, despite the fact that he did not see the officer do so. The officers, one of which had his gun drawn and pointed at § 87(2)(b) removed him from the vehicle, searched him, and searched his vehicle. § 87(2)(b) later went to file a complaint at the stationhouse, but refused to fill out the associated paperwork when an officer attempted to assist him in doing so. The CCRB substantiated the stop and search of § 87(2)(b). The gun pointed and vehicle search allegations were both closed as unsubstantiated (5A – D).
- PO Matthew Manchester has been a member of the service for three years, and has one substantiated CCRB allegation (encl. 1A – E):
  - In complaint 201308713, the CCRB substantiated a search of person allegation against PO Manchester, and recommended a command discipline. As of March 2015, the NYPD had not handed down any punishment.
  - In complaint 201309335, PO Manchester allegedly frisked an individual, however, the complainant was uncooperative.
- PO Justin Gelband and PO Marc O'Connor have been members of the service for two years, and this is the first CCRB complaint against either of them (encl. 2 and 3).
- Sgt. Kevin Grayson has been a member of the service for sixteen years, and there are no substantiated CCRB allegations against him (encl. 4). § 87(2)(g)

## **Finding and Recommendations**

### **Allegations Not Pleaded**

Because § 87(2)(b) acknowledged that his license plate light was out, no vehicle stop allegation was pleaded.

### **Allegation A – Abuse of Authority: PO Justin Gelband drew gun**

§ 87(2)(b)

§ 87(2)(b) alleged that when the officers approached his vehicle, PO Gelband drew his gun and knocked on the front passenger window with it to get him to lower the window. In complaint

§ 87(2)(b) § 87(2)(b) made virtually an identical allegation, which was unsubstantiated (see encl. 8A – C for statement).

PO Gelband said that he approached the vehicle with his flashlight in his left hand and nothing in his right hand. The windows of § 87(2)(b)'s vehicle were up, and he knocked on the window with the knuckles of his right hand. He denied drawing his gun and knocking on the window with his gun, or his flashlight. None of the other officers saw PO Gelband draw his gun or knock on the window with his gun.

§ 87(2)(g)

### **Allegation B – Abuse of Authority: PO Matthew Manchester questioned § 87(2)(b)**

### **Allegation C – Abuse of Authority: PO Matthew Manchester frisked § 87(2)(b)**

### **Allegation D – Abuse of Authority: PO Matthew Manchester searched § 87(2)(b)**

§ 87(2)(b)

It is undisputed by virtue of § 87(2)(b)'s testimony that he drove around the block numerous times looking for parking prior to being stopped. It is also undisputed by virtue of PO Manchester's testimony that he questioned, frisked and searched § 87(2)(b)

§ 87(2)(b) alleged that PO Manchester reached into his right jacket pocket, but did not remove anything. In his initial interview on December 15, 2014, § 87(2)(b) did not testify that he had a cell phone on his person at the time of the stop, however, he later stated that he recorded audio of the secondary incident at the stationhouse with his cell phone. The undersigned spoke with § 87(2)(b) on March 9, 2015. § 87(2)(b) stated that he had an iPhone 6+ at the time (which is 6.22 inches high, 3.06 inches wide – encl. 7H), which he normally keeps in his right, front pants pocket. He did not recall whether he had his phone in his pocket on the date of the incident, and did not recall whether PO Manchester removed the phone from his pocket when he frisked/searched him.

PO Manchester pulled § 87(2)(b) over for a broken license plate light, however, he was also mindful of the fact that § 87(2)(b) circled the block numerous times in an area where there was a double shooting homicide two weeks earlier, for which they were expecting some sort of retaliation. While speaking with § 87(2)(b) PO Manchester observed a bulge, which he

described as a large, cumbersome object with “hard-looking edges,” in the front, center of § 87(2)(b)'s waistband. The object protruded from § 87(2)(b)'s shirt, however, PO Manchester did not recall how large the object was, and did not provide any further description, but he believed that it was a gun based on his observations. PO Manchester saw § 87(2)(b) touch the front of his waist at some point during the interaction, but did not recall specifically when this took place. PO Manchester decided to frisk § 87(2)(b) based on the bulge in his waistband, and the fact that he had driven around the block for approximately twelve minutes in close proximity to the location where there had been a double homicide two weeks prior. Additionally, when he asked § 87(2)(b) to exit the vehicle, he also asked him about his criminal history. § 87(2)(b) admitted to having previously been arrested on gun charges, which heightened PO Manchester's suspicion that he had a gun. PO Manchester then frisked § 87(2)(b). He did not recall whether he lifted § 87(2)(b)'s shirt or removed the suspected gun from § 87(2)(b)'s waistband, but he was able to determine that it was a cellphone, not a gun. No further search was conducted after PO Manchester determined that the object was not a gun.

PO O'Connor was standing by the rear passenger window during the stop, and saw PO Manchester frisk § 87(2)(b)'s waistband, but did not recall specifically how he did so. He did not see PO Manchester enter § 87(2)(b)'s pockets. PO Gelband was standing by the front passenger window during the stop, and did not see PO Manchester frisk or search § 87(2)(b). Neither officer saw the bulge on § 87(2)(b)'s waist, however, PO Manchester told both of them about the reason for the frisk when they got back into the RMP after the stop had concluded.

§ 87(2)(g)

**Allegation E – Abuse of Authority: PO Justin Gelband searched the car in which § 87(2)(b) was an occupant**

**Allegation F – Abuse of Authority: PO Marc O'Connor searched the car in which § 87(2)(b) was an occupant**

§ 87(2)(b) alleged that he was facing away from the vehicle while he spoke with PO Manchester at the rear of the vehicle. At a certain point in the conversation he turned around and saw the front and rear passenger doors open. He did not see any officer searching the vehicle, however, PO Gelband and PO O'Connor were no longer standing next to their respective positions next to the vehicle. PO Manchester instructed § 87(2)(b) to turn and face him again, and he complied. At the conclusion of the conversation, § 87(2)(b) turned around and saw that the doors were closed, and one of the officers said, “The car's clean.” § 87(2)(b) did not see the officers exit the vehicle. Various objects in the vehicle were moved from their initial positions after the incident was concluded. § 87(2)(b) also alleged that he told Sgt. Grayson about the incident at the 44<sup>th</sup> Precinct stationhouse.

PO Gelband and PO O'Connor both denied entering the vehicle, or that the passenger side doors were ever opened. PO Manchester did not see either officer enter or search the vehicle, and neither of them informed him that they searched the vehicle after the incident. Sgt. Grayson did not recall § 87(2)(b) saying anything to him about the officers searching his vehicle while § 87(2)(b) was at the stationhouse.

§ 87(2)(g)

**Allegation G – Abuse of Authority: Sgt. Kevin Grayson did not process § 87(2)(b) s complaint regarding officers at the 44th Precinct stationhouse.**

It is undisputed by virtue of consistent civilian and officer testimony that § 87(2)(b) was at the 44<sup>th</sup> Precinct stationhouse after he was pulled over.

§ 87(2)(b) alleged that he asked Sgt. Grayson to file a complaint about the incident, and that Sgt. Grayson responded, “You want to file a complaint? Call 311.” In complaint § 87(2)(b) § 87(2)(b) testified that he asked to file a complaint at the stationhouse, but left before an officer could assist him in doing so (see encl. 8A – C for statement). § 87(2)(b) stated that he recorded audio of the incident at the stationhouse, however, he did not provide it to the investigation despite multiple requests by the investigation.

Sgt. Grayson said that when § 87(2)(b) came into the stationhouse and explained the incident to him, he asked § 87(2)(b) if he was just making him aware of the incident, or whether he wanted to file a complaint. § 87(2)(b) said that he was just making Sgt. Grayson aware of the incident, and left before Sgt. Grayson could provide him with the 800 number for the CCRB.

PO Manchester testified that he saw § 87(2)(b) speaking with Sgt. Grayson at the stationhouse, and went over to speak with him. PO Manchester provided § 87(2)(b) with the 800 number for the CCRB, at which point he left the stationhouse.

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date